

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

NOV 21 2005

JOHN F. CORCORAN, CLERK
BY: *H. McDermott*
DEPUTY CLERK

UNITED STATES OF AMERICA,
Plaintiff,

Criminal Case No. ⁴ 7:00-cr-70113

v.

By: Hon. Jackson L. Kiser
Senior United States District Judge

CRISTOBAL HERNANDEZ,
Defendant.

ORDER

This matter is before the Court on defendant's letter which the court will construe as a motion requesting copies of his sentencing hearing transcript.

An indigent defendant who is pursuing a motion under 28 U.S.C. §2255 or an appeal is entitled to free transcript(s) from his criminal proceedings only if the court finds that the §2255 motion or appeal is not frivolous and the transcript is needed to decide the issues presented in the motion or appeal. See 28 U.S.C. § 753(f); United States v. MacCollom, 426 U.S. 317 (1976); United States v. Shoaf, 341 F.2d 832, 833-34 (4th Cir. 1964)(indigent defendant must show some need for transcript beyond his mere desire to comb the record in hope of discovering errors to raise in habeas). As the defendant has not explained why he needs the requested documents, nor has he filed an appeal of his criminal conviction or a motion pursuant to §2255, the court cannot find at this time that he is entitled to a transcript at court expense.

Plaintiff is advised that he may refile his motions with the Fourth Circuit Court of Appeals, or contact the court reporter and arrange for the purchase of the transcript by contacting Court Reporter Coordinator, Brenda Dameron, P. O. Box 1234, Roanoke, VA 24006.

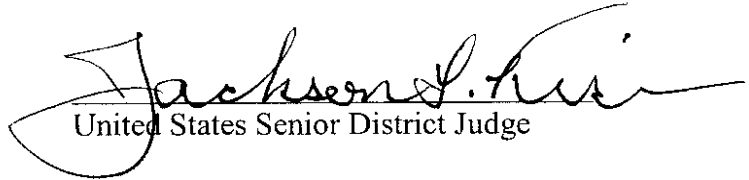
In accordance with the foregoing, it is hereby

ORDERED

that defendant's motion for free transcripts, shall be and hereby is **DENIED**.

The Clerk is directed to send certified copies of this Order to all parties.

ENTER: This 21st day of November, 2005.


United States Senior District Judge